

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

PIERRE MARTISE HARRIS

PLAINTIFF

V.

CAUSE NO. 3:19-CV-583-CWR-FKB

LT. DANIEL BARNETT, *et al.*

DEFENDANTS

ORDER

Before the Court is Defendant Buffy Creel, RN's¹ Motion to Dismiss. Docket No. 48. On May 13, 2021, Magistrate Judge Keith Ball wrote a Report and Recommendations advising that Creel's motion be granted in part and denied in part, with Harris's medical negligence claims under Miss. Code Ann. § 15-1-36(15) dismissed without prejudice and Harris's § 1983 claims permitted to proceed at this time.

The Court has reviewed both the Report and Recommendations and letters submitted by the Plaintiff. Docket Nos. 67 and 69. As the Report describes, Creel moves to dismiss all of Plaintiff's claims based on his failure to properly plead a negligence claim against her under Miss. Code Ann. § 15-1-36(15). However, the complaint alleges that Creel denied medical care to Harris that amounted to a constitutional violation. Harris's failure to file the 60-day pre-suit notice requirement in Miss. Code Ann. § 15-1-36(15) does not bar his § 1983 claims that Creel's denial of medical care was a constitutional violation. Thus, the Report and Recommendations will be adopted.

SO ORDERED, this the 4th day of June, 2021.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE

¹ Defendant Creel was incorrectly named in the Complaint as Nurse Buffy.